

WEEKLY REPORT

January 6, 2021

MEMORANDUM FOR THE CABINET SECRETARY

FROM: SINCERÉ HARRIS, 202-570-5675
ENVIRONMENTAL PROTECTION AGENCY (EPA)

SUBJECT: EPA Weekly Report | Week Ending January 6, 2021

AMERICAN RESCUE PLAN (ARP) / BIPARTISAN INFRASTRUCTURE FRAMEWORK (BIF) / BUILD BACK BETTER AGENDA (BBB) / ECONOMY

- **Next Week – Upcoming Events / Tasks / Developments:**
 - **EPA to Host Informational Webinar for \$20 Million Grants Available for Air Monitoring from the American Rescue Plan:** On January 11th, EPA will host a webinar that will provide an opportunity for participants to have their questions answered regarding EPA's recent announcement of \$20 million in available funds under the American Rescue Plan (ARP) for eligible entities to conduct ambient air monitoring of pollutants of greatest concern in communities with environmental and health outcome disparities stemming from pollution and the COVID-19 pandemic.

COVID-19

- N/A

CLIMATE

- **Past Week Accomplishments and Setbacks/Obstacles:**
 - **EPA Held Public Hearings on its Renewable Fuel Standard Program Proposal:** On January 4th, EPA held a virtual public hearing on its proposal for the "Renewable Fuel Standard (RFS) Program: RFS Annual Rules" which was signed on December 7, 2021. EPA is proposing the 2020, 2021, and

2022 renewable fuel standards, several regulatory changes to the RFS program, and to address the remand of the 2016 standard-setting rulemaking.

EQUITY FOR UNDERSERVED COMMUNITIES

- **Past Week Accomplishments and Setbacks/Obstacles:**
 - **EPA Proposes Settlement Agreement with New Indy to Address Emissions of Hydrogen Sulfide from Catawba, South Carolina Paper Mill:** On December 29th, EPA lodged a proposed consent decree in U.S. District Court in which New Indy Catawba, LLC (New Indy) has agreed to robust injunctive relief designed to prevent hydrogen sulfide (H₂S) concentrations above levels that endanger people's health from the company's Catawba, South Carolina paper mill. The company will also pay a civil penalty of \$1,100,000. The proposed settlement follows an emergency order issued by EPA on May 13th, 2021 to the New Indy Catawba mill to prevent imminent and substantial endangerment to surrounding communities.
 - **Background:** Hydrogen sulfide is a flammable, colorless gas that smells like rotten eggs. Exposure to hydrogen sulfide may cause irritation to the eyes, nose, or throat. It may also cause difficulty in breathing for individuals with asthma. Respiratory distress or arrest has been observed in people exposed to very high concentrations of hydrogen sulfide. Since April 2021, EPA has been aggressively working to identify enforceable measures to minimize facility concentrations that continue to impact communities in North and South Carolina as well as the Catawba Indian Nation. EPA's Clean Air Act (CAA) Section 303 Emergency Order to New Indy required it to install three H₂S monitors at its fence line and prohibited New Indy from emitting H₂S above health-based levels from its operations. Working with our state and Tribal partners, EPA is committed to ensuring that the facility operates in a manner that does not jeopardize people's health and the environment.

[PAGE] of [NUMPAGES]

- **EPA Releases Draft Environmental Justice Action Plan for its Land Protection and Cleanup Programs:** On January 5th, the EPA released a draft “EJ Action Plan: Building Up Environmental Justice in EPA’s Land Protection and Cleanup Programs” highlighting projects, tools, and practices to be applied to the agency’s Office of Land and Emergency Management programs. These programs include Superfund, Brownfields, Emergency Response, Solid Waste Management and Correction Corrective Action, and Underground Storage Tanks – focusing on addressing these issues in underserved communities. EPA will provide opportunities for community input at several upcoming virtual and in-person engagement events over the next few months.
 - **Background:** The draft agency’s Office of Land and Emergency Management (OLEM) Environmental Justice Action Plan (EJ) will be significantly enhanced by EPA’s recent announcement of a \$1 billion investment from the Bipartisan Infrastructure Law, the first wave of a total of \$3.5 billion under the Law, to initiate cleanup and clear the backlog of 49 previously unfunded Superfund sites and accelerate cleanup at dozens of other sites across the country. EPA is currently finalizing cleanup plans and preparing funding mechanisms for construction work, all of which will contribute to the goals of the draft OLEM EJ Action Plan.
- **National Environmental Justice Advisory Council Public Meeting:** The National Environmental Justice Advisory Council (NEJAC) convened a public meeting on January 5th, where Administrator Regan provide welcoming remarks, as well as an update on priority EJ actions underway at EPA, and engage the membership in dialogue. NEJAC deliberated on final recommendations to EPA regarding the multiyear strategic plan and updates on the work of various NEJAC working groups. The NEJAC then held a public listening session to close out the meeting.

SIGNIFICANT EXECUTIVE ORDER (EO) & AGENCY ACTIVITY

- **Significant activity for consideration to raise to the attention of POTUS:**

[PAGE] of [NUMPAGES]

- **Drinking Water Emergency at Joint Base Pearl Harbor-Hickam (HI):** This week, the EPA and the U.S. Navy will finalize an Interagency Agreement to support EPA's continued participation in the multiagency response to contamination of the Red Hill drinking water system in Pearl Harbor that occurred in November of 2021. As of January 5th, rapid flow flushing to cleanse the water distribution system has been completed in eight of 19 zones, pending confirmation sampling results. Similar residential pipe flushing and sampling will follow successful system flushing in each zone. EPA has three on-scene coordinators and three expert members of its Water Emergency Team onsite and has deployed two mobile labs to California to assist with analytical capacity. EPA is continuing to actively coordinate with the Department of Defense, members of Congress, and engage local residents and other stakeholders.
- **Past Week Accomplishments and Setbacks/Obstacles:**
 - **North Carolina PFAS Petition:** In October 2020, the Center for Environmental Health, Cape Fear River Watch, Clean Cape Fear, Democracy Green, Toxic Free NC, and the NC Black Alliance submitted a petition asking EPA to require health and environmental impact testing on 54 chemical substances that the petition identifies as Per- and polyfluoroalkyl substances (PFAS) chemicals manufactured by The Chemours Company in Fayetteville, North Carolina. PFAS are known as "forever chemicals" because they never break down and remain present in the human body and are known to seep into local groundwater. The previous administration denied this petition in January 2021, and the petitioners requested that the agency reconsider its denial in March 2021, which EPA agreed to do in September 2021. On December 28th, EPA granted this petition from the six North Carolina public health and environmental justice organizations. The petitioners' request that EPA compel development of much needed new information on PFAS underscored the need for robust testing on PFAS, and played a key role in advancing the agency's plans for a National PFAS Testing Strategy—a pillar of the agency's PFAS Strategic Roadmap that will lead to improved health protections for all

[PAGE] of [NUMPAGES]

communities. This data will also help EPA identify the sources of pollution so the agency can hold those accountable for endangering the public. EPA plans to require PFAS manufacturers to provide the agency with toxicity data and information on categories of PFAS. The information gathered as a result of this testing will help EPA deepen its understanding of the impacts of PFAS.

- **EPA Tackling Radon Issues with a New National Radon Action Plan for 2021-2025 and Outreach Campaigns as part of National Radon Action Month in January:** Beginning on January 4th, EPA launched its outreach campaign announcing that January is National Radon Action Month. Radon is a colorless, tasteless and odorless gas that causes lung cancer. Radon can reside at dangerous levels inside homes, schools and other buildings. Exposure to radon is the second leading cause of lung cancer in the United States, after smoking. Radon-related lung cancers are responsible for an estimated 21,000 deaths annually in the United States. Testing is the only way to know one's level of exposure. Radon can have a big impact on Indoor Air Quality. Throughout the month of January, EPA and their state grantees are encouraging Americans to test and fix their homes as part of National Radon Action Month (NRAM). The annual outreach campaign features a national press release, social media posts, stakeholder engagement messages in English and in Spanish, new infographics and targeted outreach by EPA regional programs.
 - **Background:** On January 3rd, EPA approved of the National Radon Action Plan (NRAP) 2021-2025. The NRAP 2021-2025 was reviewed for concurrence by all member organizations of the NRAP Leadership Council. The NRAP 2021-2025 is the third installment of a strategy anchored by EPA to ramp up action on radon. The NRAP Leadership Council has set a goal for the nation to find, fix and prevent high indoor radon levels in 8 million buildings by 2025; to prevent an average of at least 3,500 lung cancer deaths per year; and to save one-quarter of a million lives in those buildings over the next 74 years.

- **Final Decision to Add Certain Contract Sterilization Facilities to the Toxics Release Inventory (TRI):** Ethylene Oxide (EtO) is a flammable, colorless gas used to make other industrial chemicals and to sterilize medical devices and can have harmful effects on human health. On December 27th, EPA took action to expand the scope of TRI reporting requirements to include certain contract sterilization facilities that are not currently reporting on EtO releases. Making more information about releases of EtO publicly available through the TRI will assist the agency in identifying and responding to any human health and environmental threats they cause. This information will also help communities to better protect the health of their residents.
 - **Background:** In October 2021, EPA sent letters to 31 contract sterilization facilities providing notice that EPA was considering exercising its discretionary authority to expand the scope of TRI reporting requirements to include these facilities. The letters allowed the recipients 30 days to respond to EPA with information to help inform the agency's final decision. After corresponding with many of the facilities, EPA decided to issue a determination extending TRI reporting requirements to 29 of the 31 facilities for EtO and to 16 of the 31 facilities for ethylene glycol.
- **Antideficiency Act violation notification letters:** On December 30th, the EPA transmitted Antideficiency Act violation notification letters to the President of the Senate, the Speaker of the House of Representatives, the Comptroller General of the United States, and OMB. The ADA violations totaled \$52,407.09 and occurred in fiscal years 2017 and 2018 in connection with expenses incurred for the purpose of furnishing the former Administrator's office and for which Congress was not notified prior to incurring greater than \$5,000 in costs, as required by law.
- **Next Week – Upcoming Events / Tasks / Developments:**
 - **EPA to Release Plan to Coal Ash Facilities:** On January 11th, the EPA plans to release its initial set of proposed decisions for facilities that requested more time to operate
[PAGE] of [NUMPAGES]

unlined coal ash surface impoundments. The agency is taking this step to hold facilities accountable for controlling and cleaning up the environmental contamination created by decades of coal ash disposal. Similar actions will soon follow as EPA continues its review of the requests that remain pending before the agency. EPA is also notifying several other coal ash facilities about compliance issues. In these actions, EPA is re-stating its position on proper groundwater monitoring, cleanup practices, and closure activities.

- **PFAS Addition to TRI:** As part of the comprehensive Strategic Roadmap to confront the human health and ecological risks of PFAS, EPA will announce the addition of five PFAS to the Toxics Release Inventory (TRI). PFAS are known as "forever chemicals" because they never break down and remain present in the human body . The Fiscal Year 2020 National Defense Authorization Act (NDAA) provides the framework for adding additional PFAS to the TRI each year. The NDAA also identifies certain regulatory activities that automatically add PFAS or classes of PFAS to the TRI beginning January 1st of the following year. Per the NDAA requirements, these PFAS additions became effective as of January 1, 2022. Finalization of a toxicity value is a triggering regulatory action under the NDAA for automatic addition to the NDAA, and in April 2021, Adding these substances to the TRI will allow communities to learn how facilities in their area are managing these persistent chemicals. The data collected will also help inform EPA's efforts to better understand and ultimately reduce the potential risks caused by these substances. TRI data are reported by facilities in certain industry sectors, including federal facilities, that manufacture, process, or otherwise use TRI-listed chemicals above certain quantities.
- **Pesticide Active Ingredients and the Endangered Species Act:** EPA will announce meaningful action to further the agency's compliance with the Endangered Species Act (ESA) when evaluating and registering new pesticides. Before EPA registers any new conventional pesticide active ingredient (AI), the agency will evaluate the potential effects of the AI on federally threatened or endangered (listed) species and their designated critical habitats, and initiate ESA consultation with

[PAGE] of [NUMPAGES]

the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services), as appropriate. If EPA finds through its analyses that a new pesticide is likely to adversely affect listed species or their critical habitats, EPA will initiate formal consultation with the Services before registration and consider whether the registration may jeopardize the continued existence of listed species or adversely modify their designated critical habitat. If EPA predicts that jeopardy or adverse modification is possible, the agency will only make a registration decision after requiring the implementation of mitigation measures. Through this new approach, EPA will begin protecting listed species and their designated critical habitats before new pesticides are in use, which will also result in lower litigation risk and, consequently, tools that are more predictably available to farmers who rely on their use for their crops. In addition, EPA intends to release an overall ESA workplan in the coming months.

- **Enlist renewal of time-limited registrations:** EPA will renew time-limited registrations for Enlist One and Enlist Duo prior to the expiration in January 2022, which will incorporate robust ESA mitigation measures. These two herbicide products are for post emergence control of broadleaf weeds in cotton, soybean, and corn crops, including those that have developed resistance to multiple herbicides. Enlist One and Enlist Duo offer a potential alternative to over-the-top dicamba, another type of herbicide. EPA completed comprehensive risk assessments that evaluated both 2,4-D choline salt, an active ingredient in both Enlist herbicide products, and glyphosate dimethylammonium salt, an active ingredient in Enlist Duo. EPA's ecological risk assessment found direct risks to non-listed and listed plants from runoff (pesticide carried off the pesticide application site following rainfall or irrigation) and indirect risks to animals that rely on these affected plants for diet or habitat, including non-listed and listed animals and some designated critical habitats. Additionally, EPA identified direct effects to animals present on the pesticide application site (on-field animals), including bees and listed species. Based on these findings, the agency is implementing a variety of control measures to protect honeybees, on-field listed animals, and

[PAGE] of [NUMPAGES]

their designated critical habitats, as well as off-field listed animals and their designated critical habitats. With these control measures in place, EPA anticipates that uses of Enlist One and Enlist Duo will not lead to jeopardy of listed species or to the destruction or adverse modification of designated critical habitats. Additionally, as required under ESA, EPA has made effects determinations for Enlist One and Enlist Duo and has initiated formal consultation with the U.S. Fish and Wildlife Service.

- **EPA to Respond to Petition for EPA to Develop an Endangerment Finding for Lead Emissions from Aircrafts:** As early as January 11th, EPA will release a Response to Petition for EPA to Develop an Endangerment Finding for Lead Emissions from Aircraft. EPA has received a petition to develop a proposal regarding endangerment related to lead emissions from piston-engine aircraft. The agency plans to respond to the petition noting plans to publish a proposal regarding endangerment that would undergo public notice and comment, followed by a final endangerment finding likely to be issued in 2023.
- **Waters of the United States Public Hearings:** Beginning next week, EPA and Army are hosting three virtual public hearings to provide an overview and get feedback on the “Revised Definition of ‘Waters of the United States’” proposed rule. The public hearings will be held on January 12th, January 13th, and January 18th. Online registration is currently open and the agencies will hear from up to 150 speakers. The public comment period is open until February 7, 2022.

APPENDIX

- **Week ahead messaging:**

- The Bipartisan Infrastructure Law empowers EPA to invest in the health, resilience, and equity of communities.
- EPA is focused on delivering environmental justice for communities that have been overburdened by pollution and underserved for too long.
- EPA is taking action to tackle the climate crisis and reduce greenhouse gas emissions.

[PAGE] of [NUMPAGES]

- **Travel:**
 - (TBD) Potential Midwest Travel: single or multi-day travel to Wisconsin (Milwaukee, Madison and/or La Crosse) next week
- **Speeches:**
 - N/A
- **Media:**
 - On Wednesday, January 5th, Administrator Regan delivered virtual remarks at the National Environmental Justice Advisory Council (NEJAC) winter meeting, which was open press.
 - On Monday, January 10th, Administrator Regan will announce a new WIFIA loan in Baltimore, MD with a tie to BIL, alongside Congressional/state/local elected leaders. The event will be open press.
- **Principal level meetings or calls with Governors, Mayors, or other elected officials of note:**
 - Administrator Regan –
 - **January 6th** – Mayor LaToya Cantrell of New Orleans, Louisiana met with EPA Administrator Regan to discuss his visit to the City in November and the environmental justice issues raised during his tour of the Gordon Plaza affordable housing development, which the Mayor is seeking to develop into a solar farm.
 - EPA Senior Leadership –
 - **January 4th-6th** – EPA leadership met with state environmental secretaries from priority states to discuss forthcoming action from the agency on coal combustion residuals or “coal ash.” Among the meetings taking place this week are with the environmental secretaries of Michigan, New York, North Carolina, and Illinois.
- **Noteworthy public engagement:**
 - Administrator Regan –
 - **January 6th** -- Administrator Regan held a call with Mayor LaToya Cantrell (New Orleans) and Dr. Beverly Wright,

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Executive Director of the Deep South Center for Environmental Justice, to discuss follow-up actions from his Journey to Justice visit to New Orleans, Louisiana.

- **January 13th** -- Administrator Regan will meet with biofuels stakeholders to discuss the Renewable Fuels Standard.
- **January 17th** -- Administrator Regan will participate in a DC-based volunteer event to celebrate the Martin Luther King, Jr. Day of Service.

EPA Senior Leadership –

- **January 4th** – EPA senior staff met with labor leaders from the Steelworkers, Plumbers and Pipefitters United Association (UA), Boilermakers, and the Building Trades (NABTU) to discuss the Renewable Fuels Standard.

• **Principal level meetings or calls with Members of Congress:**

Administrator Regan –

- **January 7th (Tentative)** – Administrator Regan may do a virtual Bipartisan Infrastructure Law water infrastructure event with Representative Steny Hoyer (D-MD).

• **Noteworthy inquiries from Congressional committees or Members of Congress; scheduled testimony by Secretary or Deputy Secretary:**

- N/A

• **Noteworthy rulemaking in the Federal Register:**

- N/A

• **Funding Announcements:**

- N/A

• **Grant Notices (NOFA/NOFOs):**

- N/A

[PAGE] of [NUMPAGES]

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